

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-CR-72-MR-WCM**

UNITED STATES OF AMERICA

v.

JOSEPH DANIEL PERRY

ORDER

This matter is before the Court on various filings by Defendant.

On August 3, 2021, a Bill of Indictment was filed charging Defendant with two counts of knowingly and intentionally distributing a quantity of methamphetamine in violation of Title 21, United States Code, Section 841 (a) (1). Doc. 3.

On August 25, 2021, Defendant made his initial appearance. Defendant moved for the appointment of counsel and his request was granted. In addition, the Government moved for pretrial detention. Arraignment and a hearing on the Government's motion for detention were scheduled for August 30, 2021.

On August 26, 2021, attorney Amos Tyndall was assigned to represent Defendant.

On August 27, 2021, Defendant moved for a continuance of his arraignment and detention hearing. Doc. 10. That request was granted and the hearings were rescheduled for September 1, 2021.

On August 30, 2021, attorney Andrew Brooks filed a notice of appearance for Defendant. Doc. 11. In addition, Mr. Brooks filed notices “special appearance” for two Georgia attorneys, Katryna Lyn Spearman and Murdoch Walker II.¹ Docs. 12, 13. Mr. Brooks also filed a “Motion to Proceed Via VTC and Waiver” requesting that Defendant’s detention hearing be conducted via video or teleconference. Doc. 14.

Also on August 30, 2021, Mr. Tyndall filed a motion to withdraw as counsel. Doc. 15.

Subsequently, also on August 30, Mr. Brooks filed a “Notice of Consent to Pre-trial Detention and Motion to Vacate Detention Hearing.” Doc. 16.

These filings raise multiple issues.

With regard to the notices of “special appearance,” no such appearance is contemplated by the local rules of this district and the notices do not otherwise provide authorities to support such an appearance. Therefore, the attempted appearances by Ms. Spearman and Mr. Walker are of no effect. To the extent Ms. Spearman and Mr. Walker seek to be admitted *pro hac vice* in this matter on behalf of Defendant, Mr. Brooks may file the appropriate motions pursuant to Local Criminal Rule 44.1 and Local Civil Rule 83.1.

¹ Mr. Walker has since communicated to the undersigned’s chambers that he is currently located in New England.

In addition, it is unclear whether Defendant consents to the granting of the Government's motion for pre-trial detention, or whether he wishes to waive his right to an immediate detention hearing while preserving his right to have a detention hearing at a later date.

The Court in its discretion, and in part based on the lack of clarity with regard to the status of counsel, finds that the hearings scheduled for September 1, 2021, which had been rescheduled at Defendant's request, should proceed as planned. Mr. Tyndall's motion to withdraw will also be taken up at that time.

IT IS THEREFORE ORDERED THAT:

1. Defendant's Motion to Proceed Via VTC and Waiver [Doc. 14] is **DENIED**.
2. The "special appearances" by Ms. Spearman [Doc. 13] and Mr. Walker [Doc. 12] are, respectfully, **DEEMED INEFFECTIVE** and the parties are **ADVISED** that the Court considers Defendant to be represented by Mr. Tyndall and Mr. Brooks at this time.

3. Defendant's Notice of Consent to Pre-Trial Detention and Motion to Vacate Detention Hearing [Doc. 16] is **DENIED WITHOUT PREJUDICE**. The undersigned will consider Defendant's position on the Government's motion for detention on September 1, 2021, as noticed.

Signed: August 31, 2021

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

